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In re Application of

AUG 20 2007

Ledoux, et al.

OFFICE OF PETITIONS

Application No. 09/822,864

DECISION ON PETITION

Filed: April 2, 2001

Attorney Docket No. 004600

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 19, 2007. This is also a decision on the petition for expedited treatment filed February 19, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

The petition for expedited treatment is **dismissed as moot**.

A review of the application file history as it was reconstructed reveals that a restriction requirement was mailed on February 26, 2003, to which applicant responded on May 6, 2003. Thereafter, another restriction/election requirement was mailed on May 22, 2003, allowing a thirty-day period for response. The restriction/election requirement also stipulated that:

[t]his application is in condition for allowance except for the presence of claim 1-2 to an invention non-elected with traverse in Paper no. 7. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiners Amendment and pass the case to issue. Extensions of the time under 37 CFR 1.136(a) will not be permitted since the application will be passed to issue.

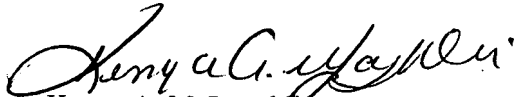
Applicant did not respond based on the aforementioned statements. Notwithstanding, the application was held abandoned for failure to respond to the restriction/election requirement.

The instant petition was filed on February 19, 2007. Petitioner argues that the holding of abandonment should be withdrawn. Although petitioner did not respond to the restriction/election requirement, petitioner argues that the application should have proceeded to issuance based on the statement made in the restriction/election requirement. Petitioner's argument is persuasive. The holding of abandonment is being withdrawn on the basis of the statements made in the restriction/election requirement and on the basis of the e-mail communication on July 9, 2007, between the undersigned and Examiner Nguyen

wherein Examiner Nguyen did not communicate any opposition to withdrawal of the holding of abandonment.

The petition to expedite is being dismissed as moot because the petition did not receive expedited treatment.

The application file is being forwarded Technology Center 2800, GAU 2881, for further processing.

A handwritten signature in black ink, appearing to read "Kenya A. McLaughlin". The signature is fluid and cursive, with the first name "Kenya" being the most prominent part.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions